IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

WEDNESDAY, THE 19TH JULY 2006 / 28TH ASHADHA,1928

Bail Appl..No. 4324 of 2006

(CRIME NO.84/2006 OF POOVAR POLICE STATION)

PETITIONER/1ST ACCUSED

RAJASEKHARAN S/O.VELAYUDHAN,
MEKKEPLAKAVILA VEEDU, THIRUPURAM,
NEYYATTINKARA TALUK,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.G.SUDHEER

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNKULAM.

BY PUBLIC PROSECUTOR P.M. HABEEB

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/07/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

B.A. 4324/2006

DATED THIS THE 19TH DAY OF JULY, 2006

O R D E R

The petitioner is the first accused, in crime No.84/2006 of Poovar Police Station. The offence alleged against him and others are under Section 379 IPC read with Section 34 IPC and also under Section 12(4), 21 and Section 20 of the 'Kerala Protection of River Banks and Regulation of Removal of Sand Act', 2002. The allegation is that at his instance and involvement, his wife, Mini, was conducting removal of sand from the property of the latter for the purpose of conducting the hollow bricks business, which Mini was doing. The petitioner is the police constable. On complaint, the police seized the sand, which was collected from the property, without any authorisation. The seized sand was entrusted to Mini, as per the procedure. However, it is alleged that the petitioner had committed theft of the said river sand, which led to the registration of this crime.

2. The counsel for the petitioner submitted that he is a person suffering from vertebra complaint on L4-L5

joint and he is undergoing treatment. He is advised not to lift weight, or do any strenuous exercises. It is therefore, submitted that such person cannot commit theft of the sand, which was collected and kept in the site.

3. The learned Public Prosecutor clarified that when the Circle Inspector of police came to the place of occurrence, it was seen that the petitioner himself was collecting sand from the river. I am not entering into any discussion on the matter through this petition, which is preferred under Section 438 Cr.P.C. Nevertheless, I direct the petitioner to appear before the Judicial Magistrate of First Class-II, Neyyattinkara, on 26.7.2006 at 11.00 a.m., and move an application for bail, after serving copy of the same to the APP of that Court. In such event, the learned Magistrate shall pass appropriate orders on merit, on the same day itself.

The application is disposed of as above.

J.M.JAMES
JUDGE

mrcs